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MONTANA LAWS
Relating to
CAMPAIGN FINANCES AND PRACTICES

Title 23, Chapter 47
Revised Codes of Montana,
as amended, 1975

Compiled by

Frank Murray, Secretary of State
Helena, Montana

Published by Authority

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FILING FOR OFFICE

Information and forms for filing for federal, state, multi-county district and legislative office are available from:

Frank Murray
Secretary of State
Capitol Station
Helena, Montana 59601.

Candidates for County office file with:

Clerk and Recorder
_____ County
Courthouse
_____, MT 59_____ .

Candidates of City or Town office file with the City or Town Clerk.

Candidates for School District office file with the Clerk of the School District.

CAMPAIGN EXPENDITURE AND CONTRIBUTION REPORTS

Information and forms for all candidates and political committees are available from:

John Hanson
Commissioner of Campaign
Finances and Practices
Capitol Station
Helena, Montana 59601.

Copies of the laws relating to political campaigns, rules and regulations adopted by the Commissioner and reporting forms are available from the County Clerk and Recorder.

TITLE 23

ELECTIONS

EFFECTIVE DATE NOTICE

Chapter 480, Laws of Montana 1975 which amended, repealed and enacted many sections of Title 23, Chapter 47, Revised Codes of Montana, was effective April 21, 1975 except that the first reporting period for any candidate or political committee begins on January 1, 1976. Notes are included following the sections for other effective dates after the publication of this pamphlet.

CANDIDATES SHOULD CHECK THE RULES AND REGULATIONS ADOPTED BY THE COMMISSIONER OF CAMPAIGN FINANCES AND PRACTICES PURSUANT TO THE FOLLOWING STATUTES.

CHAPTER 47 — ELECTION FRAUDS AND OFFENSES — CORRUPT PRACTICES ACT

23-4701. Violation of election laws by certain officers a misdemeanor. Every person charged with the performance of any duty, under the provisions of any law of this state relating to elections, or the registration of the names of electors, or the canvassing of the returns of election, who willfully neglects or refuses to perform such duty, or who, in his official capacity, knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is punishable by fine not exceeding one thousand dollars ($1,000), or by imprisonment in a county jail not exceeding six (6) months, or both.

23-4702. Fraudulent registration a felony. Every person who willfully causes, procures, or allows himself to be registered in the official register of any election district of any county, knowing himself not to be entitled to such registration, is punishable by a fine not exceeding one thousand dollars, or by imprisonment in the county jail or state prison not exceeding one year, or both. In all cases where, on the trial of the person charged with any offense under the provisions of this section, it appears in evidence that the accused stands registered in such register of any county, without being qualified for such registration, the court must order such registration to be canceled.

23-4703. Fraudulent voting. Every person not entitled to vote who fraudulently votes, and every person who votes more than once at any one election, or changes any ballot after the same has been deposited in the ballot-box, or adds, or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot-box before or after the ballots therein have been counted; or adds to, or mixes with, or attempts to add to or mix with, the ballots lawfully polled, other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or carries away or destroys, or attempts to carry away or destroy, any poll-lists, check-lists, or ballots, or ballot-box, for the purpose of breaking up or invalidating such election, or willfully detains, mutilates, or destroys any election returns, or in any manner so interferes with the officers holding such election or conducting such canvass, or with the voters lawfully exercising their rights of voting at such election, as to prevent such election or canvass from being fairly held and lawfully conducted, is guilty of a felony.

23-4704. Attempting to vote without being qualified. Every person not entitled to vote, who fraudulently attempts to vote or register, or who, being entitled to vote, attempts to vote or register more than once at any election, is guilty of a misdemeanor.

23-4705. Procuring illegal voting. Every person who procures, aids, assists, counsels, or advises another to

register or give or offer his vote at any election, knowing that the person is not entitled to vote or register, is guilty of a misdemeanor.

23-4706. Changing ballots or altering returns by election officers. Every officer or clerk of election who aids in changing or destroying any poll-list or check-list, or in placing any ballots in the ballot-box, or taking any therefrom, or adds, or attempts to add, any ballots to those legally polled at such election, either by fraudulently introducing the same into the ballot-box before or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election, or allows another to do so, when in his power to prevent it, or carries away or destroys, or knowingly allows another to carry away or destroy, any poll-list, check-list, ballot-box, or ballots lawfully polled, is guilty of a felony.

23-4707. Judges unfolding or marking ballots. Every judge or clerk of an election who, previous to putting the ballot of an elector in the ballot-box, attempts to find out any name on such ballot, or who opens or suffers the folded ballot of any elector which has been handed in, to be opened or examined previous to putting the same into the ballot-box, or who makes or places any mark or device on any folded ballot, with the view to ascertain the name of any person for whom the elector has voted, is punishable by imprisonment in the county jail for a period of six months, or in the state prison not exceeding two years, or by fine, not exceeding five hundred dollars, or by both.

23-4708. Forging or altering returns. Every person who forges or counterfeits returns of an election purporting to have been held at a precinct, town, or ward where no election was in fact held, or willfully substitutes forged or counterfeit returns of election in the place of the true returns for a precinct, town, or ward where an election was actually held, is punishable by imprisonment in the state prison for a term not less than two nor more than ten years.

23-4709. Adding to or subtracting from votes given. Every person who wilfully adds to or subtracts from the votes actually cast at an election, in any returns, or who alters such returns, is punishable by imprisonment in the state prison for not less than one nor more than five years.

23-4710. Persons aiding and abetting. Every person who aids or abets in the commission of any of the offenses mentioned in the four preceding sections in punishable by imprisonment in the county jail for a period of six months, or in the state prison not exceeding two years.

23-4711. Intimidating, corrupting, deceiving or defrauding electors. Every person who, by force, threats, menaces, bribery, or any corrupt means, either directly or indirectly, attempts to influence any elector in giving his vote, or to deter him from giving the same, or attempts by any means whatever to awe, restrain, hinder, or disturb any elector in the

free exercise of the right of suffrage, or defrauds any elector at any such election, by deceiving and causing such elector to vote for a different person for any office than he intended or desired to vote for; or who, being judge or clerk of any election, while acting as such, induces, or attempts to induce, any elector, either by menaces or reward, or promise thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor, and is punishable by a fine not exceeding one thousand dollars, or imprisonment not to exceed one year, or both.

23-4712. Offenses under the election laws. Every person who falsely makes, or fraudulently defaces or destroys, the certificates of nomination of candidates for office, to be filled by the electors at any election, or any part thereof, or files or receives for filing any certificate of nomination, knowing the same, or any part thereof, to be falsely made, or suppresses any certificate of nomination, which has been duly filed, or any part thereof, or forges or falsely makes the official indorsement on any ballot, is guilty of a felony, and upon conviction thereof is punishable by imprisonment in the state prison not less than one nor more than five years.

23.4713. Officers of election not to electioneer, etc. Every officer or clerk of election who deposits in a ballot-box on which the official stamp, as provided by law, does not appear, or does any electioneering on election day, is guilty of a misdemeanor, and upon conviction is punishable by imprisonment not to exceed six months, or by a fine not less than fifty nor more than five hundred dollars, or both.

23-4714. Offenses at an election. Every person who, during an election, removes or destroys any of the supplies or other conveniences placed in the booths or compartments for the purpose of enabling a voter to prepare his ballot, or prior to or on the day of election wilfully defaces or destroys any list of candidates posted in accordance with the provisions of law, or during an election tears down or defaces the cards printed for the instruction of voters, or does any electioneering on election day within any polling-place or any building in which an election is being held, or within twenty-five feet thereof, or obstructs the doors or entries thereof, or removes any ballot from the polling-place before the closing of the polls, or shows his ballot to any person after it is marked so as to reveal the contents thereof, or solicits an elector to show his ballot after it is marked, or places a mark on his ballot by which it may afterward be identified, or receives a ballot from any other person than one of the judges of the election having charge of the ballots, or votes or offers to vote any ballot except such as he has received from the judges of election having charge of the ballots, or does not return the ballot before leaving the polling-place, delivered to him by such judges, and which he has not voted, is guilty of a misdemeanor, and is punishable by a fine not exceeding one hundred dollars.

23-4715. Furnishing money or entertainment for, or procuring attendance of, electors. Every person who,

with the intention to promote the election of himself or any other person, either:

1. Furnishes entertainments, at his expense, to any meeting of electors previous to or during an election;

2. Pays for, procures, or engages to pay for any such entertainment;

3. Furnishes or engages to pay any money or property for the purpose of procuring the attendance of voters at the polls, or for the purpose of compensating any person for procuring the attendance of voters at the polls, except for the conveyance of voters who are sick or infirm;

4. Furnishes or engages to pay or deliver any money or property for any purpose intended to promote the election of any candidate, except for the expenses of holding and conducting public meetings for the discussion of public questions, and of printing and circulating ballots, handbills, and other papers, previous to such election; is guilty of a misdemeanor.

23-4716. Unlawful offer to appoint to office. Every person who, being a candidate at any election, offers, or agrees to appoint or procure, the appointment of any particular person to office, as an inducement or consideration to any person to vote for, or to procure or aid in procuring the election of such candidate, is guilty of a misdemeanor.

23-4717. Communication of same. Every person, not being a candidate, who communicates any offer, made in violation of the last section, to any person, with intent to induce him to vote for, or to procure or to aid in procuring the election of the candidate making the offer, is guilty of a misdemeanor.

23-4718. Bribing members of legislative caucuses, etc. Every person who gives or offers a bribe to any officer or members of any legislative caucus, political convention, or political gathering of any kind, held for the purpose of nominating candidates for offices of honor, trust, or profit, in this state, with intent to influence the person to whom such bribe is given or offered to be more favorable to one candidate than another, and every person, member of either of the bodies in this section mentioned, who receives or offers to receive any such bribe, is punishable by imprisonment in the state prison not less than one nor more than fourteen years.

23-4719. Preventing public meetings of electors. Every person who, by threats, intimidations, or violence, wilfully hinders or prevents electors from assembling in public meeting for the consideration of public questions, is guilty of a misdemeanor.

23-4720. Disturbances of public meetings of electors. Every person who wilfully disturbs or breaks up any public meeting of electors or others, lawfully being held for the purpose of considering public questions, or any public school or public school meeting, is guilty of a misdemeanor.

23-4721. Betting on elections. Every person who makes, offers, or accepts any bet or wager upon the result of any

election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast, either in the aggregate or for any particular candidate, or upon the vote to be cast by any person, is guilty of a misdemeanor.

23-4723. Bribery. The following persons shall be deemed guilty of bribery, and shall be punished by a fine not exceeding one thousand dollars, and imprisonment in the penitentiary not exceeding one year:

1. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers or promises, any money or valuable consideration, or promises to procure, or endeavors to procure, any money or valuable consideration, to or for any election, or to or for any person on behalf of any elector, or to or for any person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid;

2. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, or procures, or agrees to give or procure, or offers or promises, any office, place, or employment, to or for any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid, on account of any elector having voted or refrained from voting at any election;

3. Every person who, directly or indirectly, by himself or by any other persons on his behalf, makes any gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavor to procure the return of any person to serve in the legislative assembly, or the vote of any elector at any election;

4. Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures or promises, or endeavors to procure, the election of any candidate to the legislative assembly, or the vote of any elector at any election;

5. Every person who advances or pays, or causes to be paid, any money to, or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery, or in corrupt practices, at any election, or who knowingly pays, or causes to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery or corrupt practices at any election;

6. Every elector who, before or during any election, directly or indirectly, by himself or any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, valuable consideration, office, place, or employment, for himself or any other person, for voting or agreeing to vote, or for refusing or agreeing to refrain from voting at any election;

7. Every person who, after any election, directly or indirectly, by himself or by any other person in his behalf, receives any money, gift, loan, valuable consideration, office, place, or employment, for having voted or refrained from voting,

or having induced any other person to vote or refrain from voting, at any election;

8. Every person, whether an elector or otherwise, who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, makes approaches to any candidate or agent, or any person representing or acting on behalf of any candidate at such election, and asks for, or offers to agree or contract for, any money, gift, loan, valuable consideration, office, place, or employment for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at such election;

9. Every person, whether an elector or otherwise, who, after an election, directly or indirectly, by himself or by any other person on his behalf, makes approaches to any candidate, or any agent or person representing or acting on behalf of any candidate, and asks for or offers to receive any money, gift, loan, valuable consideration, office, place, or employment, for himself or any other person, for having voted or refrained from voting, or having induced any other person to vote or refrain from voting at such election;

10. Every person who, in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has so become, gives or lends any money or valuable consideration whatever, or agrees to give or lend, or offers or promises any such money or valuable consideration, or promises to procure or try to procure, or tries to procure, for such person, or for any other person, any money or valuable consideration;

11. Every person who, for the purpose and with the intent in the last preceding subsection mentioned, gives or procures any office, place, or employment, or agrees to give or procure, or offers or promises, such office, place, or employment, or endeavors to procure, or promises to procure or to endeavor to procure, such office, place, or employment, to or for such person or any other person;

12. Every person who, in consideration of any gift, loan, offer, promise, or agreement, as mentioned in the two last preceding subsections, allows himself to be nominated, or refuses to allow himself to be nominated, as a candidate at an election, or withdraws if he has been so nominated;

13. Every elector, candidate for nomination, nominee, or political committee who shall pay, or offer to pay, the fee for any person who is about to, or has made hs declaration of intention, or has taken out, or is about to take out, his final papers as a citizen of the United States; and every person who receives any money or other valuable thing to pay such fee, or permits the same to be paid for him.

23-4724. Unlawful acts of employers and employees. (1) It shall be unlawful for any employer, in paying his employees the salary or wages due them, to enclose their pay in "pay envelopes" upon which there is written or

printed the name of any candidate or political mottoes, devices, or arguments containing threats or promises, express or implied, calculated or intended to influence the political opinions or actions of such employees. Nor shall it be lawful for an employer, to put up or otherwise exhibit in his factory, workshop, or other establishment or place where his workmen or employees may be working, any handbill or placard containing any threat or promise, notice, or information, that in case any particular ticket or political party, or organization, or candidate, shall be elected, work in his place or establishment will cease, in whole or in part, or shall be continued or increased, or his place or establishment be closed up, or the salaries or wages of his workmen or employees be reduced or increased, or other threats, or promises, express or implied, intended or calculated to influence the political opinions or actions of his workmen or employees. This section shall apply to corporations, individuals, and public officers and employees.

(2) No person may attempt to coerce, command, or require a public employee to influence or give money, service or other thing of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.

(3) No public employee may solicit any money, influence, service or other thing of value or otherwise aid or promote any political committee or the nomination or election of any person to public office while on the job or at his place of employment. However, nothing in this section is intended to restrict the right of a public employee to express his personal political views.

(4) Any person who violates the provisions of this section shall be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail for a term not to exceed six (6) months, or both, for each separate offense.

Note: Sections 23-4727 and 23-4728 are not printed in this publication since they are repealed on January 1, 1976. These sections relate to limitation of expenditures by candidates. Copies are available from the secretary of state, on request.

23-4732. Copies of act to be furnished certain public officers and candidates. The secretary of state shall, at the expense of the state, furnish to the county clerk, and to the city and town clerks, auditors, and recorders, copies of this act as a part of the election laws. In the filing of a nomination petition or certificate of nomination, the secretary of state, in the case of state and district offices for districts composed of one or more counties, and county clerks for county offices, and the city and town clerks, auditors, or recorders for municipal offices, shall transmit to the several candidates, and to the treasurers of political committees, and to political agents, as far as they may be known to such officer, copies of this act, and also to any other person required to file a statement such copies shall be furnished upon application therefor. Upon his own information, or at the written request of any voter, said secretary of state shall transmit to any other person believed by him or averred to be a candidate,

or who may otherwise be required to make a statement, a copy of this act.

Note: See also section No. 23-4794, R.C.M.

23-4737. Payments in name of undisclosed principal. No person shall make a payment of his own money or of another person's money to any other person in connection with a nomination or election in any other name than that of the person who in truth supplies such money; nor shall any person knowingly receive such payment, or enter, or cause the same to be entered, in his accounts or records in another name than that of the person by whom it was actually furnished; provided, if the money be received from the treasurer of any political organization, it shall be sufficient to enter the same as received from said treasurer.

23-4738. Promise to procure appointment or election. No person shall, in order to aid or promote his nomination or election, directly or indirectly, himself or through any other person, promise to appoint another person, or promise to secure or aid in securing the appointment, nomination, or election of another person to any public or private position or employment, or to any position of honor, trust, or emolument, except that he may publicly announce or define what is his choice or purpose in relation to any election in which he may be called to take part, if elected, and if he is a candidate for nomination or election as a member of the legislative assembly, he may pledge himself to vote for the people's choice for United States senator, or state what his action will be on such vote.

23-4740. Certain public officers prohibited from acting as delegates or members of political committee. No holder of a public position, other than an office filled by the voters, shall be a delegate to a convention for the election district that elects the officer or board under whom he directly or indirectly holds such position, nor shall he be a member of a political committee for such district.

23-4741. Transfer of convention credential. No person shall invite, offer, or effect the transfer of any convention credential in return for any payment of money or other valuable thing.

23-4742. Inducing person to be or not to be candidate. No person shall pay, or promise to reward another, in any manner or form, for the purpose of inducing him to be or refrain from or cease being a candidate, and no person shall solicit any payment, promise, or reward from another for such purpose.

23-4743. What demands or requests shall not be made of candidates. No person shall demand, solicit, ask, or invite any payment or contribution for any religious, political, charitable, or other cause or organization supposed to be primarily or principally for the public good, from a person who seeks to be or has been nominated or elected to any office; and no such candidate or elected person shall make any such payment or contribution if it shall be demanded or asked during the time he

is a candidate for nomination or election to or an incumbent of any office. No payment or contribution for any purpose shall be made a condition precedent to the putting of a name on any caucus or convention ballot or nomination paper or petition, or to the performance of any duty imposed by law on a political committee. No person shall demand, solicit, ask, or invite any candidate to subscribe to the support of any club or organization, to buy tickets to any entertainment or ball, or to subscribe for or pay for space in any book, program, periodical, or other publication; if any candidate shall make any such payment or contribution with apparent hope or intent to influence the result of the election, he shall be guilty of a corrupt practice; but this section shall not apply to the soliciting of any business advertisement for insertion in a periodical in which such candidate was regularly advertising prior to his candidacy, nor to ordinary business advertising, nor to his regular payment to any organization, religious, charitable, or otherwise, of which he may have been a member, or to which he may have been a contributor, for more than six months before his candidacy, nor to ordinary contributions at church services.

23-4744. Contributions from corporations, public utilities and others. No corporation, bank, savings bank, cooperative bank, savings and loan association, trust, surety, indemnity, safe deposit, insurance, railroad, street railway, telegraph, telephone, gas, electric light, heat, power, canal, aqueduct, water, cemetery or crematory company, or any company having the right to take or condemn land, or to exercise franchises in public ways granted by the state or by any county, city, or town, shall pay or contribute in order to aid, promote, or prevent the nomination or election of any person, or in order to aid or promote the interests, success, or defeat of any political party, organization, or ballot issue. No person shall solicit or receive such payment or contribution from such corporation.

23-4744.1. Salary increase contribution prohibited. A corporation may not increase the salary of any officer or employee or give an emolument to any officer, employee or other person, with the intention that the increase in salary, or the emolument, or any part thereof, be contributed to support or oppose a candidate or ballot issue.

23-4745. Treating. Any person or candidate who shall, either by himself or by any other person, either before or after an election, or while such person or candidate is seeking a nomination or election, directly or indirectly, give or provide, or pay, wholly or in part, the expenses of giving or providing any meat or drink, or other entertainment or provision, clothing, liquors, cigars, or tobacco, to or for any person for the purpose of or with intent or hope to influence that person, or any other person, to give or refrain from giving his vote at such election to or for any candidate or poltiical party ticket, or measure before the people, or on account of such persons, or any other person, having voted or refrained from voting for any candidate or the candidates of any political party or organization or measure before the people, or being about to vote or refrain from voting at such election, shall be guilty of treating. Every elector who

accepts or takes any such meat, drink, entertainment, provision, clothing, liquors, cigars, or tobacco, shall also be guilty of treating; and such acceptance shall be a ground of challenge to his vote and of rejecting his vote on a contest.

23-4746. Challenging voters — procedure. Whenever any person's right to vote shall be challenged, and he has taken the oath prescribed by the statutes, and if it is at a nominating election, then it shall be the duty of the clerks of election to write in the poll-books at the end of such person's name the words "challenged and sworn," with the name of the challenger. Thereupon the chairman of the board of judges shall write upon the back of the ballot offered by such challenged voter the number of his ballot, in order that the same may be identified in any future contest of the results of the election, and be cast out if it shall appear to the court to have been for any reason wrongfully or illegally voted for any candidate or on any question. And such marking of the name of such challenged voter, nor the testimony of any judge or clerk of election in reference thereto, or in reference to the manner in which said challenged person voted, if said testimony shall be given in the course of any contest, investigation, or trial wherein the legality of the vote of such person is questioned for any reason, shall not be deemed a violation of section 94-1407.

23-4747. Coercion or undue influence of voters. Every person who shall, directly or indirectly, by himself or any other person in his behalf, make use of or threaten to make use of any force, coercion, violence, restraint, or undue influence, or inflict or threaten to inflict, by himself or any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting for any candidate, or the ticket of any political party, or any measure before the people, or any person who, being a minister, preacher, or priest, or any officer of any church, religious or other corporation or organization, otherwise than by public speech or print, shall urge, persuade, or command any voter to vote or refrain from voting for or against any candidate or poltical party ticket or measure submitted to the people, for or on account of his religious duty, or the interest of any corporation, church, or other organization, or who shall, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election, or shall thereby compel, induce, or prevail upon any elector to give or to refrain from giving his vote at any election, shall be guilty of undue influence, and shall be punished as for a corrupt practice.

23-4748. Bets or wagers on election results. Any candidate who, before or during any election campaign, makes any bet or wager of anything of pecuniary value, or in any manner becomes a party to any such bet or wager on the result of the election in his electoral district, or in any part thereof, or on any event or contingency relating to any pending election, or who provides money or other valuables to be used by any person in betting or wagering upon the results of any impending election, shall be guilty of a corrupt practice. Any person who,

for the purpose of influencing the result of any election, makes any bet or wager of anything of pecuniary value on the result of such election in his electoral district, or any part thereof, or of any pending election, or on any event or contingency relating thereto, shall be guilty of a corrupt practice, and in addition thereto any such act shall be ground of challenge against his right to vote.

23-4749. Personating another elector — penalty. Any person shall be deemed guilty of the offense of personation who, at any election, applies for a ballot in the name of some other person, whether it be that of a person living or dead, or of a fictitious person, or who, having voted once at an election, applies at the same election for a ballot in his own name; and on conviction thereof such person shall be punished by imprisonment in the pentitentiary at hard labor for not less than one nor more than three years.

23-4751. Compensating voter for loss of time — badges and insignia. It shall be unlawful for any person to pay another for any loss or damage due to attendance at the polls, or in registering, or for the expense of transportation to or from the polls. No person shall pay for personal service to be performed on the day of a caucus, primary, convention, or any election, for any purpose connected therewith, tending in any way, directly or indirectly, to affect the result thereof, except for the hiring of persons whose sole duty is to act as challengers and watch the count of official ballots. No person shall buy, sell, give, or provide any political badge, button, or other insignia to be worn at or about the polls on the day of any election, and no such political badge, button, or other insignia shall be worn at or about the polls on any election day.

23-4752. Publication in newspapers and periodicals. No publisher of a newspaper or other periodical shall insert, either in its advertising or reading columns, any paid matter which is designed or tends to aid, injure, or defeat any candidate or any political party or organization, or measure before the people, unless it is stated therein that it is a paid advertisement, the name of the chairman or secretary, or the names of the other officers of the political or other organization inserting the same, or the name of some voter who is responsible therefor, with his residence and the street number thereof, if any, appear in such advertisement in the nature of a signature. No person shall pay the owner, editor, publisher, or agent of any newspaper or other periodical to induce him to editorially advocate or oppose any candidate for nomination or election, and no such owner, editor, publisher, or agent shall accept such payment. Any person who shall violate any of the provisions of this section shall be punished as for a corrupt practice.

23-4753. Solicitation of votes on election day. It shall be unlawful for any person at any place on the day of any election to ask, solicit, or in any manner try to induce or persuade any voter on such election day to vote for or refrain from voting for any candidate, or the candidates or ticket of any political party or organization, or any measure submitted to the

people, and upon conviction thereof he shall be punished by fine of not less than five dollars nor more than one hundred dollars for the first offense, and for the second and each subsequent offense occurring on the same or different election days, he shall be punished by fine as aforesaid, or by imprisonment in the county jail for not less than five nor more than thirty days, or by both such fine and imprisonment.

23-4754. Political criminal libel. It shall be unlawful to write, print, publish, mimeograph, type, or otherwise produce or circulate through the mails or otherwise any letter, circular, bill, dodger, pamphlet, placard, poster, or other document relating to any election or to any candidate, political party, political committee, or issue at any election, unless the same shall bear on its face the name and address of the person paying for the printing or publishing, and the name of the printer and publisher thereof; and any person writing, printing, publishing, circulating, posting, mimeographing, typing, or causing to be written, printed, circulated, posted, mimeographed, typed, or published any such letter, bill, placard, dodger, pamphlet, circular, poster, or other document as aforesaid, which fails to bear on its face the name and address of the person paying for the printing or publishing, and the name of the printer or publisher, shall be guilty of an illegal practice, and shall on conviction thereof be punished by a fine of not less than ten dollars ($10) nor more than one thousand dollars ($1,000). If any letter, circular, poster, bill, dodger, pamphlet, publication, placard, or other document shall contain any false statement or charges reflecting on any candidate's character, morality, or integrity, the person paying for the printing or publishing, and the name of every person printing or knowingly assisting in the circulation, shall be guilty of political criminal libel, and upon conviction shall be punished by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars ($1,000), or both. If the person charged with such crime shall prove on his trial that he had reasonable ground to believe such charge was true, and did believe it was true, and that he was not actuated by malice in making such publication, it shall be a sufficient defense to such charge. But in that event, and as a part of such defense, the person paying for the printing or publishing, or the printer or publisher or other person charged with such crime shall also prove that, at least fifteen days before such letter, circular, poster, bill, dodger, pamphlet, placard, or other document containing such false statement or statements was printed or circulated, he or they caused to be served personally and in person upon the candidate to whom it relates a copy thereof in writing, and calling his attention particularly to the charges contained therein, and that, before printing, publishing, or circulating such charges, he received and read any denial, defense, or explanation, if any, made or offered to him in writing by the accused candidate within ten days after the service of such charge upon the accused person.

23-4756. Inducement to accept or decline nomination. It shall be unlawful for any person to accept, receive, or pay money or any valuable consideration for becoming or for

refraining from becoming a candidate for nomination or election, or by himself or in combination with any other person or persons to become a candidate for the purpose of defeating the nomination or election of any other person, and not with a bona fide intent to obtain the office. Upon complaint made to any district court, if the judge shall be convinced that any person has sought the nomination, or seeks to have his name presented to the voters as a candidate for nomination by any political party, for any mercenary or venal consideration or motive, and that his candidacy for the nomination is not in good faith, the judge shall forthwith issue his writ of injunction restraining the officer or officers whose duty it is to prepare the official ballots for such nominating election from placing the name of such person thereon as a candidate for nomination to any office. In addition thereto, the court shall direct the county attorney to institute criminal proceedings against such person or persons for corrupt practice, and upon conviction thereof he and any person or persons combining with him shall be punished by a fine of not more than one thousand dollars, or imprisonment in the county jail for not more than one year.

23-4757. Forfeiture of nomination or office for violation of law, when not worked. Where, upon the trial of any action or proceeding under the provisions of this act for the contest of the right of any person declared nominated or elected to any office, or to annul or set aside such nomination or election, or to remove a person from his office, it appears from the evidence that the offense complained of was not committed by the candidate, or with his knowledge or consent, or was committed without his sanction or connivance, and that all reasonable means for preventing the commission of such offense at such election were taken by and on behalf of the candidate, or that the offense or offenses complained of were trivial, unimportant, and limited in character, and that in all other respects his participation in the election was free from such offenses or illegal acts, or that any act or omission of the candidate arose from inadvertence or from accidental miscalculation, or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and under the circumstances it seems to the court to be unjust that the said candidate shall forfeit his nomination or office, or be deprived of any office of which he is the incumbent, then the nomination or election of such candidate shall not by reason of such offense or omission complained of be void, nor shall the candidate be removed from or deprived of his office.

23-4758. Punishment for violation of act. If, upon the trial of any action or proceeding under the provisions of this act, for the contesting of the right of any person declared to be nominated to an office, or elected to an office, or to annul and set aside such election, or to remove any person from his office, it shall appear that such person was guilty of any corrupt practice, illegal act, or undue influence, in or about such nomination or election, he shall be punished by being deprived of the nomination or office, as the case may be, and the vacancy therein shall be filled in the manner provided by law. The only exception to

this judgment shall be that provided in the preceding section of this act. Such judgment shall not prevent the candidate or officer from being proceeded against by indictment or criminal information for any such act or acts.

23-4759. Time for commencing contest. Any action to contest the right of any person declared elected to an office, or to annul and set aside such election, or to remove from or deprive any person of an office of which he is the incumbent, for any offense mentioned in this act, must, unless a different time be stated, be commenced within forty days after the return day of the election at which such offense was committed, unless the ground of the action or proceeding is for the illegal payment of money or other valuable thing subsequent to the filing of the statements prescribed by this act, in which case the action or proceeding may be commenced within forty days after the discovery by the the complainant of such illegal payment. A contest of the nomination or office of governor or representative or senator in congress must be commenced within twenty days after the declaration of the result of the election, but this shall not be construed to apply to any contest before the legislative assembly.

23-4760. Court having jurisdiction of proceedings. An application for filing a statement, payment of a claim, or correction of an error or false recital in a statement filed, or an action or proceeding to annul and set aside the election of any person declared elected to an office, or to remove or deprive any person of his office for an offense mentioned in this act, or any petition to excuse any person or candidate in accordance with the power of the court to excuse as provided in section 23-4757, must be made or filed in the district court of the county in which the certificate of his nomination as a candidate for the office to which he is declared nominated or elected is filed, or in which the incumbent resides.

23-4762. Declaration of result of election after rejection of illegal votes. If, in any case of a contest on the ground of illegal votes, it appears that another person than the one returned has the highest number of legal votes, after the illegal votes have been eliminated, the court must declare such person nominated or elected, as the case may be.

23-4763. Grounds for contest of nomination or office. Any elector of the state, or of any political or municipal division thereof, may contest the right of any person to any nomination or office for which such elector has the right to vote, for any of the following causes:

1. On the ground of deliberate, serious, and material violation of any of the provisions of this act, or of any other provision of the law relating to nominations or elections.

2. When the person whose right was contested was not, at the time of the election, eligible to such office.

3. On account of illegal votes or an erroneous or fraudulent count or canvass of votes.

23-4764. Nomination or election not to be vacated, when. Nothing in the third ground of contest specified in the preceding section is to be so construed as to authorize a nomination or election to be set aside on account of illegal votes, unless it appear, either that the candidate or nominee whose right is contested had knowledge of or connived at such illegal votes, or that the number of illegal votes given to the person whose right to the nomination or office is contested, if taken from him, would reduce the number of his legal votes below the number of votes given to some other person for the same nomination or office, after deducting therefrom the illegal votes which may be shown to have been given to such other person.

23-4765. Reception of illegal votes, allegations and evidence. When the reception of illegal votes is alleged as a cause of contest, it shall be sufficient to state generally that in one or more specified voting precincts illegal votes were given to the person whose nomination or election is contested, which, if taken from him, will reduce the number of his legal votes below the number of legal votes given to some other person for the same office; but no testimony shall be received of any illegal votes, unless the party contesting such election deliver to the opposite party, at least three days before such trial, a written list of the number of illegal votes, and by whom given, which he intends to prove on such trial. This provision shall not prevent the contestant from offering evidence of illegal votes not included in such statement, if he did not know and by reasonable diligence was unable to learn of such additional illegal votes, and by whom they were given, before delivering such written list.

23-4766. Contents of contest petition — amendment — bond — costs — citation — precedence. Any petition contesting the right of any person to a nomination or election shall set forth the name of every person whose election is contested, and the grounds of the contest, and shall not thereafter be amended, except by leave of the court. Before any proceeding thereon the petitioner shall give bond to the state in such sum as the court may order, not exceeding two thousand dollars, with not less than two sureties, who shall justify in the manner required of sureties on bail-bonds, conditioned to pay all costs, disbursements, and attorney's fees that may be awarded against him if he shall not prevail. If the petitioner prevails, he may recover his costs, disbursements, and reasonable attorney's fees against the contestee. But costs, disbursements, and attorney's fees, in all such cases, shall be in the discretion of the court, and in case judgment is rendered against the petitioner, it shall also be rendered against the sureties on the bond. On the filing of any such petition, the clerk shall immediately notify the judge of the court, and issue a citation to the person whose nomination or office is contested, citing them to appear and answer, not less than three nor more than seven days after the date of filing the petition, and the court shall hear said cause, and every such contest shall take precedence over all other business on the court docket, and shall be tried and disposed of with all convenient despatch. The court shall always be deemed in session for the trial of such cases.

23-4767. Hearing of contest. The petitioner (contestant) and the contestee may appear and produce evidence at the hearing, but no person, other than the petitioner and contestee, shall be made a party to the proceedings on such petition; and no person, other than said parties and their attorneys, shall be heard thereon, except by order of the court. If more than one petition is pending, or the election of more than one person is contested, the court may, in its discretion, order the cases to be heard together, and may apportion the costs, disbursements, and attorney's fees between them, and shall finally determine all questions of law and fact, save only that the judge may, in his discretion, impanel a jury to decide on questions of fact. In the case of other nominations or elections, the court shall forthwith certify its decision to the board or official issuing certificates of nomination or election, which board or official shall thereupon issue certificates of nomination or election to the person or persons entitled thereto by such decision. If judgment of ouster against a defendant shall be rendered, said judgment shall award the nomination or office to the person receiving next the highest number of votes, unless it shall be further determined in the action, upon appropriate pleading and proof by the defendant, that some act has been done or committed which would have been ground in a similar action against such person, had he received the highest number of votes for such nomination or office, for a judgment of ouster against him; and if it shall be so determined at the trial, the nomination or office shall be by the judgment declared vacant, and shall thereupon be filled by a new election, or by appointment, as may be provided by law regarding vacancies in such nomination or office.

23-4768. Corporations — proceedings against, for violation of act. In like manner as prescribed for the contesting of an election, any corporation organized under the laws of or doing business in the state of Montana may be brought into court on the ground of deliberate, serious, and material violation of the provisions of this act. The petition shall be filed in the district court in the county where said corporation has its principal office, or where the violation of law is averred to have been committed. The court, upon conviction of such corporation, may impose a fine of not more than ten thousand dollars, or may declare a forfeiture of the charter and franchises of the corporation, if organized under the laws of this state, or if it be a foreign corporation, may enjoin said corporation from further transacting business in this state, or by both such fine and forfeiture, or by both such fine and injunction.

23-4770. Advancement of cases — dismissal, when — privileges of witnesses. Proceedings under this act shall be advanced on the docket upon request of either party for speedy trial, but the court may postpone or continue such trial if the ends of justice may be thereby more effectually secured, and in case of such continuance or postponement, the court may impose costs in its discretion as a condition thereof. No petition shall be dismissed without the consent of the county attorney, unless the same shall be dismissed by the court. No person shall

be excused from testifying or producing papers or documents on the ground that his testimony or the production of papers or documents will tend to criminate him; but no admission, evidence, or paper made or advanced or produced by such person shall be offered or used against him in any civil or criminal prosecution, or any evidence that is the direct result of such evidence or information that he may have so given, except in a prosecution for perjury committed in such testimony.

23-4771. Form of complaint. A petition or complaint filed under the provisions of this act shall be sufficient if it is substantially in the following form:

In the District Court of the
_____ Judicial District,
for the County of _____, State of Montana.

A B (or A B and C D), Contestants,
vs.
E F. Contestee.

The petition of contestant (or contestants) above named alleges:

That an election was held (in the state, district, county, or city of _____), on the _____ day of _____, A. D. 19____, for the (nomination of a candidate for) (or election of a) (state the office).

That _____ and _____ were candidates at said election, and the board of canvassers has returned the said _____ as being duly nominated (or elected) at said election.

That contestant A B voted (or had a right to vote, as the case may be) at said election (or claims to have had a right to be returned as the nominee or officer elected or nominated at said election, or was a candidate at said election, as the case may be), and said contestant C D (here state in like manner the right of each contestant).

And said contestant (or contestants) further allege (here state the facts and grounds on which the contestants rely).

Wherefore, your contestants pray that it may be determined by the court that said _____ was not duly nominated (or elected), and that said election was void (or that the said A B or C D, as the case may be) was duly nominated (or elected), and for such other and further relief as to the court may seem just and legal in the premises.

Said complaint shall be verified by the affidavit of one of the petitioners in the manner required by law for the verification of complaints in civil cases.

23-4773. False oaths or affidavits — perjury. Any person who shall knowingly make any false oath or affidavit where an oath or affidavit is required by this law shall be deemed guilty of perjury and punished accordingly.

23-4776. Statement of purpose. It is the purpose of this act to establish clear and consistent requirements for the full disclosure and reporting of the sources and disposition of funds

used in Montana to support or oppose candidates, political committees, or issues, and to consolidate and clarify the authority to enforce the election and campaign finance laws as specified in Title 23, R.C.M. 1947.

23-4777. Definitions. As used in Title 23, chapter 47, R.C.M. 1947:

(1) "Candidate" means an individual who has filed a declaration of nomination, certificate of nomination, or acceptance of nomination for public office as required by law, but does not include a candidate for national office who is subject to the provisions of federal election campaign laws.

(2) "Commissioner" means the commissioner of campaign finances and practices as described in section 23-4785.

(3) "Election" means a general, special, or primary election held to choose a public officer or submit an issue for the approval or rejection of the people.

(4) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection including, but not limited to, initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question.

(5) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(6) "Contribution" means:

(a) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(b) a transfer of funds between political committees;

(c) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee; but

(d) "contribution" does not mean services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee, nor meals and lodging provided by individuals in their private residence for a candidate or other individual.

(7) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election, but "expenditure" does not mean:

(a) services, food, or lodging provided in a manner that they are not contributions under this act; nor

(b) payments by a candidate for his personal travel expenses or for food, clothing, lodging, or personal necessities for himself and his family.

(8) "Anything of value" means any goods that have a certain utility to the recipient that is real and that ordinarily is not given away free, but is purchased.

(9) "Political committee" means a combination of two or more individuals, or a person other than an individual, the primary or incidental purpose of which is to support or oppose a candidate or issue or to influence the result of an election by any expenditure.

(10) "Individual" means a human being.

(11) "Person" means an individual, corporation, association, firm, partnership, co-operative, committee, club, union, or other organization or group of individuals, or a candidate as defined in subsection (1) of this section.

23-4778. Reports of contributions and expenditures required. (1) Each candidate and political committee shall file periodic reports of contributions and expenditures made by or on the behalf of a candidate or political committee. All reports required by this section shall be filed with the commissioner and with the county clerk and recorder of the county in which a candidate is a resident or the political committee has its headquarters. However, where residency within a district, county, city, or town is not a prerequisite for being a candidate, copies of all reports shall be filed with the county clerk and recorder of the county in which the election is to be held, or if the election is to be held in more than one county, with the clerk and recorder of the county that the commissioner shall specify.

(2) In lieu of all contribution and expenditure reports required by this act, the commissioner shall accept copies of the reports filed by candidates for Congress and president of the United States, and their political committees, pursuant to the requirements of federal law.

(3) Candidates for a state office filled by a statewide vote of all the voters of Montana, the political committees for such candidates, and political committees organized to support or oppose a statewide issue, shall file reports:

(a) on the tenth day of March and September, in each year that an election is to be held, and on the fifteenth and fifth days next preceding the date on which an election is held, and within twenty-four (24) hours after receiving a contribution of five hundred dollars ($500) or more at any time after the last pre-election report;

(b) not more than twenty (20) days after the date of the election;

(c) on the tenth day of March and September of each year following an election so long as there is an unexpended balance or an expenditure deficit in a campaign account; and

(d) whenever a candidate or political committee finally closes its books.

(4) Candidates for a state district office, including but not limited to, candidates for the legislature, public service commission, or district court judge, their political committees, and political committees organized to support or oppose district issues, shall file reports:

(a) on the tenth day next preceding the date on which an

election is held, and within twenty-four (24) hours after receiving a contribution of one hundred dollars ($100) or more at any time after the last pre-election report;

(b) not more than twenty (20) days after the date of the election;

(c) whenever a candidate or political committee finally closes its books.

(5) Candidates for any other public office, their political committees, and political committees organized to support or oppose local issues, shall be required to file the reports specified in subsection (4) only if the total amount of contributions received or the total amount of funds expended for an election, excluding the filing fee paid by the candidate, exceed five hundred dollars ($500).

(6) All reports required by this section shall be complete as of the date prescribed by the commissioner, which shall not be less than five (5) or more than ten (10) days before the date of filing as specified in subsections (2) through (5) of this section.

(7) The commissioner shall adopt rules and regulations that will permit political committees, including political parties, to file copies of a single comprehensive report when they support or oppose more than one candidate or issue.

(8) Reports filed under this section shall be filed to cover the following time periods:

(a) the initial report shall cover all contributions received or expenditures made by a candidate or political committee prior to the time that a person became a candidate as defined in subsection (1) of section 23-4777 until the date prescribed by the commissioner for the filing of the appropriate initial report pursuant to subsections (2) through (5) of this section;

(b) subsequent periodic reports shall cover the period of time from the closing of the previous report to a date prescribed by the commissioner, which shall not be less than five (5) days or more than ten (10) days before the date of filing;

(c) final reports shall cover the period of time from the last periodic report to the final closing of the books of the candidate or political committee.

23-4779. What reports must disclose. Each report required by this act shall disclose the following information, except that a candidate shall only be required to report the information specified in this section if the transactions involved were undertaken for the purpose of influencing an election:

(1) the amount of cash on hand at the beginning of the reporting period;

(2) the full name and mailing address (occupation and the principal place of business, if any) of each person who has made aggregate contributions, other than loans, of twenty-five dollars ($25) or more to the candidate or political committee (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fund-raising events) within the reporting period together with the aggregate amount of those contri-

butions, and the total amount of contributions made by that person;

(3) the total sum of individual contributions made to or for the political committee or candidate and not reported under subsection (2) of this section;

(4) the name and address of each political committee or candidate from which the reporting committee or candidate received any transfer of funds together with the amount and dates of all those transfers;

(5) each loan from any person during the reporting period together with the full names and mailing addresses (occupation and principal place of business, if any) of the lender and endorsers, if any, and the date and amount of each loan;

(6) the amount and nature of debts and obligations owed to a political committee or candidates in the form prescribed by the commissioner;

(7) an itemized account of proceeds from:

(a) the sale of tickets to each dinner, luncheon, rally, and other fund-raising events;

(b) mass collections made at such an event; and

(c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(8) each contribution, rebate, refund, or other receipt not otherwise listed under subsections (2) through (6) of this section during the reporting period;

(9) the total sum of all receipts received by or for the committee or candidate during the reporting period;

(10) the full name and mailing address (occupation and the principal place of business, if any) of each person to whom expenditures have been made by the committee or candidate during the reporting period, including the amount, date, and purpose of each expenditure and the total amount of expenditures made to each person;

(11) the full name and mailing addresses (occupation and the principal place of business, if any) of each person to whom an expenditure for personal services, salaries, and reimbursed expenses have been made, including the amount, date, and purpose of that expenditure and the total amount of expenditures made to each person;

(12) the total sum of expenditures made by a political committee or candidate during the reporting period;

(13) the name and address of each political committee or candidate to which the reporting committee or candidate made any transfer of funds together with the amount and dates of all those transfers;

(14) the name of any person to whom a loan was made during the reporting period, including the full name and mailing address (occupation and principal place of business, if any) of that person, and the full name and mailing address (occupation

and principal place of business, if any) of the endorsers, if any, and the date and amount of each loan;

(15) the amount and nature of debts and obligations owed by a political committee or candidate in the form prescribed by the commissioner;

(16) other information that may be required by the commissioner to fully disclose the sources and disposition of funds used to support or oppose candidates or issues.

23-4780. Reports must be certified as true and correct. (1) A report required by this act to be filed by a candidate or political committee shall be verified as true and correct by the oath or affirmation of the individual filing the report. The individual filing the report shall be the candidate or an officer of a political committee who is on file as an officer of the committee with the commissioner. The oath or affirmation shall be made before an officer authorized to administer oaths.

(2) A copy of a report or statement shall be preserved by the individual filing it for a period of time to be designated by the commissioner.

(3) The commissioner may promulgate rules and regulations regarding the extent to which organizations that are not primarily political committees, but are incidentally political committees shall report their politically related activities in accordance with this act.

23-4781. Campaign treasurer and campaign depository. (1) Each candidate for nomination or election to office and each political committee shall appoint one (1) campaign treasurer. No contribution shall be received or expenditure made by or on behalf of a candidate or political committee until the candidate or political committee appoints a campaign treasurer and certifies the name and address of the campaign treasurer pursuant to this section. The certification, which shall include an organizational statement, properly acknowledged by a notary public, and setting forth of the name and address of the campaign treasurer and all other officers, if any, of the political committee, shall be filed with the commissioner and the appropriate county clerk and recorder as specified for the filing of reports in section 23-4778.

(2) A campaign treasurer may appoint deputy campaign treasurers, but not more than one (1) in each county in which the campaign is conducted. Each candidate and political committee shall certify the full name and complete address of the campaign treasurer and all deputy campaign treasurers with the office with whom the candidate or the political committee is required to file reports.

(3) Any campaign or deputy campaign treasurer appointed pursuant to this section shall be a registered voter in this state. An individual may be appointed and serve as a campaign treasurer of a candidate and a political committee or two (2) or more candidates and political committees. A candidate may appoint himself as his own campaign or deputy campaign treasurer. No individual may serve as a campaign or deputy

campaign treasurer or perform any duty required of a campaign or deputy campaign treasurer of a candidate or political committee until he has been designated and his name certified by the candidate or political committee.

(4) Deputy campaign treasurers may exercise any of the powers and duties of a campaign treasurer as set forth in this act when specifically authorized in writing to do so by the campaign treasurer and the candidate in the case of a candidate, or the campaign treasurer and the chairman of the political committee in the case of a political committee.

(5) A candidate or political committee may remove his or its campaign or deputy campaign treasurer. The removal of any treasurer or deputy treasurer shall immediately be reported to the officer with whom the name of the campaign treasurer was originally filed. In case of death, resignation, or removal of his or its campaign treasurer before compliance with any obligation of a campaign treasurer under this act, the candidate or political committee shall appoint a successor and certify the name and address of the successor as specified in subsection (1) of this section.

(6) Each candidate and each political committee shall designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate or political committee. The candidate or political committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate or committee participates. Deputy campaign treasurers may make deposits in and make expenditures from secondary depositories when authorized to do so as provided in sub-section (4) of this section. Only a bank authorized to transact business in Montana may be designated as a campaign depository. The candidate or political committee shall file the name and address of each primary and secondary depository so designated at the same time and with the same officer with whom the candidate or committee files the name of his or its campaign treasurer pursuant to subsection (1) of this section. Nothing in this subsection shall prevent a political committee or candidate from having more than one campaign account in the same depository.

23-4782. Deposit of contributions—statement of campaign treasurer. All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or political committee shall be deposited prior to the end of the fifth business day following their receipt (Sundays and holidays excluded) in a checking account in a campaign depository designated pursuant to section 23-4781. A statement showing the amount received from or provided by each person and the account in which the funds are deposited shall be prepared by the campaign treasurer at the time the deposit is made. This statement along with the receipt form for cash contributions deposited at the same time and a deposit slip for the deposit shall be kept by the treasurer as a part of his records.

23-4783. Treasurer to keep records — inspections. (1) The campaign treasurer of each candidate

and each political committee shall keep detailed accounts, current within not more than ten (10) days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a statement filed under this act.

(2) Accounts kept by the campaign treasurer of a candidate or political committee may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by the campaign treasurer of any opposing candidate or political committee in the same electoral district. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction. The campaign treasurers of political committees supporting a candidate may be joined with the campaign treasurer of the candidate as respondents in such a proceeding.

(3) Accounts kept by a campaign treasurer of a candidate shall be preserved by the campaign treasurer for a period coinciding with the term of office for which the person was a candidate.

23-4784. Petty cash funds allowed. (1) The campaign treasurer for each candidate or political committee is authorized to withdraw the following amount each week from the primary depository for the purpose of providing a petty cash fund for the candidate or political committee:

(a) for all candidates for nomination or election on a statewide basis and all political committees operating on a statewide basis, one hundred dollars ($100) per week; and

(b) for all other candidates and political committees, twenty dollars ($20) per week.

(2) The petty cash fund may be spent for office supplies, transportation expenses, and other necessities in an amount of less than ten dollars ($10). Petty cash shall not be used for the purchase of time, space, or services from any communications medium.

23-4785. Commissioner — how appointed, qualifications, and offices. (1) There is hereby created the position of commissioner of campaign finances and practices, who shall be appointed by a majority of a four (4) member selection committee which shall be comprised of the speaker of the house, the president of the senate and the minority floor leaders of both houses of the Montana legislature. However, if a majority of the members of the selection committee cannot agree upon the selection of a commissioner within thirty (30) days after the passage and approval of this act, the Montana supreme court shall appoint a fifth public member to the selection committee. The majority of the five (5) members of the selection committee shall then select the commissioner.

(2) The individual selected to serve as the commissioner of campaign finances and practices shall be appointed for a five (5) year term, but he shall thereafter be ineligible to serve as the commissioner of campaign finances and practices and shall be

precluded from being a candidate for public office as defined in this act for a period of five (5) years from the time that his term as commissioner expires.

(3) If for any reason a vacancy should occur in the position of commissioner, a successor shall be appointed within thirty (30) days as provided in subsection (1) to serve out the unexpired term. An individual who is selected to serve out the unexpired term of a preceding commissioner shall be entitled to be reappointed for a five (5) year term as provided in subsection (1).

(4) The commissioner may be removed from office by impeachment as provided in sections 95-2801 and 95-2802, R.C.M. 1947. He may also be prosecuted by the appropriate county attorney for official misconduct as specified in section 94-7-401, R.C.M. 1947.

(5) The commissioner of campaign finances and practices shall receive an annual salary of twenty-one thousand dollars ($21,000) and the salary commission may recommend salary increases to the legislature.

(6) The office of the commissioner shall be attached to the office of the secretary of state for administrative purposes only as specified in section 82A-108, except that the provisions of subsections (1) (b), (1) (c), (2) (a), (2) (b), (2) (d), (2) (e), and (3) (a) of section 82A-108, R.C.M. 1947, do not apply.

23-4786. Powers and duties of the commissioner. The commissioner shall exercise the following powers and perform the following duties:

(1) The commissioner of campaign finances and practices shall be responsible for investigating all of the alleged violations of the election laws contained in Title 23, R.C.M. 1947, and shall in conjunction with the county attorneys, be responsible for enforcing all of the state's election laws.

(2) The commissioner shall select an appropriate staff to enforce the provisions of Title 23, R.C.M. 1947, and he shall have the power to hire and fire all personnel under his supervision.

(3) The commissioner may hire or retain attorneys who are properly licensed to practice before the supreme court of the state of Montana to prosecute violations of Title 23, R.C.M. 1947. Any properly licensed attorney so retained or hired shall exercise the powers of a special attorney general and he shall have the power to prosecute, subject to the control and supervision of the commissioner and the provisions of section 23-4788, any criminal or civil action arising out of a violation of any provision of Title 23, R.C.M. 1947. All prosecutions shall be brought in the state district court for the county in which a violation has occurred or in the district court for Lewis and Clark County. The authority to prosecute as prescribed by this section includes the authority to:

(a) institute proceedings for the arrest of persons charged with or reasonably suspected of criminal violations of Title 23, R.C.M. 1947;

(b) attend and give advice to a grand jury when cases involving criminal violations of Title 23, R.C.M. 1947, are presented;

(c) draw and file indictments, informations, and criminal complaints;

(d) prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or county from persons convicted of violating Title 23, R.C.M. 1947; and

(e) do any other act necessary to successfully prosecute a violation of any provision of Title 23, R.C.M. 1947.

(4) The commissioner shall prescribe forms for statements and other information required to be filed pursuant to Title 23, R.C.M. 1947, and furnish forms and appropriate information to persons required to file statements and information.

(5) The commissioner shall prepare and publish a manual prescribing a uniform system for accounts for use by persons required to file statements pursuant to Title 23, R.C.M. 1947.

(6) The commissioner shall accept and file any information voluntarily supplied that exceeds the requirements of Title 23, R.C.M. 1947.

(7) The commissioner shall prescribe the manner in which the county clerks and recorders shall receive, file, collate, and maintain reports filed with them under Title 23, R.C.M. 1947.

(8) The commissioner shall make statements and other information filed with his office available for public inspection and copying during regular office hours, and make copying facilities available free of charge or at a charge not to exceed actual cost.

(9) The commissioner shall preserve statements and other information filed with his office for a period of ten (10) years from date of receipt.

(10) The commissioner shall prepare and publish summaries of the statements received.

(11) The commissioner shall prepare and publish such other reports as he may deem appropriate.

(12) The commissioner shall provide for wide public dissemination of summaries and reports.

(13) The commissioner shall have the authority to investigate all statements filed pursuant to the provisions of Title 23, R.C.M. 1947, and shall also investigate alleged failures to file any statement or the alleged falsification of any statement filed pursuant to the provisions of Title 23, R.C.M. 1947. Upon the submission of a written complaint by any individual, the commissioner shall also investigate any other alleged violation of the provisions of Title 23, R.C.M. 1947, or any rule or regulation adopted pursuant thereto.

(14) The commissioner shall promulgate and publish rules and regulations to carry out the provisions of Title 23,

R.C.M. 1947, and shall promulgate such rules in conformance with the Montana Administrative Procedure Act.

(15) The commissioner shall at the close of each fiscal year report to the legislature and the governor concerning the action he has taken, including the names, salaries, and duties of all individuals in his employ and the money he has disbursed. The commissioner shall also make further reports on the matters within his jurisdiction as the legislature may prescribe and shall also make recommendations for further legislation as may appear desirable.

(16) The commissioner shall be responsible for preparing, administering and allocating the budget for his office.

(17) The commissioner shall have the power to inspect any records, accounts or books that must be kept pursuant to the provisions of Title 23, R.C.M. 1947, which are held by any political committee or candidate so long as such inspection is made during reasonable office hours.

(18) The commissioner shall have the power to issue orders of non-compliance as prescribed by section 23-4787.

(19) The commissioner shall exercise all of the powers conferred upon him by this act or any other provision of state law in any jurisdiction or political subdivision of the state.

(20) After receiving the final campaign contribution and expenditure report filed as required by Title 23, R.C.M. 1947, the commissioner shall inform the secretary of state, or the city or county clerk and recorder that each candidate who has been properly elected to any public office has filed his final contribution and expenditure report as specified in section 23-4778.

(21) The commissioner shall have the authority to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of Title 23, R.C.M. 1947.

23-4787. Examination of statements and issuance of orders of non-compliance. (1) Each statement filed with the commissioner during an election or within sixty (60) days thereafter shall be inspected within ten (10) days after the date upon which the statement is filed. If a person has not satisfied the provisions of Title 23, R.C.M. 1947, the commissioner shall immediately notify a person of the non-compliance. Such an order of noncompliance shall be issued when:

(a) upon examination of the official ballot, it appears that the person has failed to file a statement as required by law or that a statement filed by a person does not conform to law; or

(b) it is determined that a statement filed with the commissioner does not conform to the requirements of Title 23, R.C.M. 1947, or that a person has failed to file a statement required by law.

(2) If an order of noncompliance is issued during a campaign period, or within sixty (60) days after an election, a candidate or political committee shall submit the necessary information five (5) days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner shall have the authority to initiate a civil or criminal action pursuant to the procedures outlined in section 23-4788.

(3) If an order of noncompliance is issued during any other period than that described in subsection (2), a candidate or political committee shall submit the necessary information within ten (10) days after receiving the notice of noncompliance. Upon a failure to submit the required information within the time specified, the appropriate county attorney or the commissioner shall initiate a civil or criminal action pursuant to the procedures outlined in section 23-4788.

(4) A candidate or political treasurer aggrieved by the issuance of an order of noncompliance may seek judicial review in the district court of the county in which the candidate resides or the county in which the political committee has its headquarters. All petititons for judicial review filed pursuant to this act shall be expeditiously reviewed by the appropriate district court.

(5) Within one hundred twenty (120) days after the date of each election, the commissioner shall examine and compare each statement or report filed with the commissioner pursuant to the provisions of Title 23, R.C.M. 1947, to determine whether a statement or report conforms to the provisions of the law. The examination shall include a comparison of all reports and statements received by the commissioner pursuant to the requirements of Title 23, R.C.M. 1947. The commissioner may investigate the source and authenticity of any contribution or expenditure listed in any report or statement filed pursuant to Title 23, R.C.M. 1947, or the alleged failure to report any contribution or expenditure required to be reported pursuant to Title 23, R.C.M. 1947.

23-4788. Prosecutions and powers of the county attorney. (1) When the commissioner determines that there appears to be sufficient evidence to justify a civil or criminal prosecution as specified in section 23-4793, he shall notify the county attorney of the county in which the alleged violation occurred and shall arrange to transmit to the county attorney all information relevant to the alleged violation. If the county attorney fails to initiate the appropriate civil or criminal action within thirty (30) days atter he receives notification of the alleged violation, the commissioner may then initiate the appropriate legal action.

(2) A county attorney may at any time prior to the expiration of the thirty (30) day time period specified in subsection (1) waive his right to prosecute and thereby authorize the commissioner to initiate the appropriate civil or criminal action as specified in section 23-4793.

(3) The provisions of subsection (1) do not apply to a situation in which the alleged violation has been committed by the county attorney of a county. In this instance, the commissioner is authorized to directly prosecute any alleged violation of Title 23, R.C.M. 1947.

(4) If a prosecution is undertaken by the commissioner, all court costs associated with the prosecution shall be paid by the state of Montana.

(5) Nothing in this act shall prevent a county attorney from inspecting any records, accounts, or books which must be kept pursuant to the provisions of Title 23, R.C.M. 1947, that are held by any poltiical committee or candidate involved in an election to be held within the county. However, such inspections must be conducted during reasonable office hours.

(6) A county attorney shall have the authority to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, correspondence, memoranda, bank account statements of a political committee or candidate, or other records which are relevant or material for the purpose of conducting any investigation pursuant to the provisions of Title 23, R.C.M. 1947.

23-4789. Right to inspect current accounts and reports. Every individual shall have the right to inspect any report or current account that must be kept or filed pursuant to the provisions of Title 23, R.C.M. 1947, but only if such inspection will occur during reasonable office hours and in such a manner that normal office functions will not be unnecessarily interrupted.

23-4790. Duties of county clerk and recorder. (1) A county clerk and recorder shall maintain all records and statements filed pursuant to the provisions of Title 23, R.C.M. 1947, for a period of ten (10) years from the date of receipt.

(2) A county clerk and recorder shall accept and file any information voluntarily supplied that exceeds the requirements of Title 23, R.C.M. 1947.

(3) A county clerk and recorder shall file, code, and cross-index all reports and statements filed as prescribed by the commissioner.

(4) A county clerk and recorder shall make statements and other information filed with his office available for public inspection and copying during regular office hours, and make copying facilities available free of charge or at a charge not to exceed actual cost.

23-4791. Names not to be printed on ballot. (1) The name of a candidate shall not be printed on the official ballot for a general or special election if the candidate or a political treasurer for a candidate fails to file any statement as required by Title 23, R.C.M. 1947.

(2) A vacancy on an official ballot under this section may

be filled in the manner provided by law, but not by the name of the same candidate.

(3) In carrying out the mandate of this section, the commissioner must by a written statement notify the secretary of state or the city or county clerk or the clerk of a school district, that a candidate, or a candidate's political treasurer, has not complied with the provisions of Title 23, R.C.M. 1947, as described in subsection (1) and that a candidate's name should not be printed on the official ballot.

23-4792. Certificates of election may be withheld. No certificate of election shall be granted to any candidate until his political treasurer has filed the reports and statements that must be filed pursuant to the provisions of Title 23, R.C.M. 1947. No candidate for an elective office may assume the powers and duties of that office until he has received a certificate of election as provided by law. A certificate of election shall only be issued by the public official responsible for issuing a certificate or commission after receiving written assurance from the commissioner that a candidate has filed all of the reports that must be filed pursuant to the provisions of Title 23, R.C.M. 1947.

23-4793. Penalties. (1) A person who knowingly submits a false report or deliberately fails to include any information required by Title 23, R.C.M. 1947, or who knowingly submits a false report or deliberately fails to report any contribution or expenditure as required by Title 23, R.C.M. 1947, may be guilty of false swearing, or unsworn falsification to authorities as applicable and upon conviction shall be punished as provided in sections 94-7-203 or 94-7-204 for each separate violation.

(2) Any person who accepts a contribution prohibited by Title 23, R.C.M. 1947, or makes a contribution in excess of the amounts specified in Title 23, R.C.M. 1947, or in any manner other than that provided in Title 23, R.C.M. 1947, is guilty of a violation and upon conviction shall be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail for a term not to exceed six (6) months, or both, for each separate violation.

(3) Any person who violates any other provision of Title 23, R.C.M. 1947, upon conviction, shall be fined not to exceed one thousand dollars ($1,000) or be imprisoned in the county jail for a term not to exceed six (6) months, or both, for each separate violation.

(4) If a court of competent jurisdiction finds that the violation of any provision of Title 23, R.C.M. 1947, by any candidate or political committee probably affected the outcome of any election, the result of that election may be held void and a special election held within sixty (60) days of that finding, or where the violation occurred during a primary election, the court may direct the appropriate political party to select a new candidate according to the provisions of state law and the custom of the party. Any action to void an election shall be commenced within one (1) year of the date of the election in question.

(5) Except as provided in subsection (4), any action brought pursuant to the provisions of Title 23, R.C.M. 1947, must be commenced within four (4) years after the date when the violation occurred.

(6) In addition to all other penalties prescribed by this act:

(a) any candidate who is convicted of violating any provision of Title 23, R.C.M. 1947, shall be ineligible to be a candidate for any public office in the state of Montana for a period of five (5) years from the date of conviction;

(b) any campaign treasurer who is convicted of violating any provision of Title 23, R.C.M. 1947, shall be ineligible to be a candidate for any public office or to hold the position of campaign treasurer in any campaign in the state of Montana for a period of five (5) years from the date of conviction.

(7) In any action brought pursuant to the provisions of Title 23, R.C.M. 1947, the appropriate state district court shall have the power to enjoin any person to prevent the doing of any act herein prohibited, or to compel the performance of any act herein required.

(8) Nothing in this section shall prevent a county attorney or the commissioner from seeking a penalty otherwise specifically provided for in Title 23, R.C.M. 1947.

(9) All fines and forfeitures imposed pursuant to this section shall be deposited in the state general fund.

23-4794. Secretary of state must furnish copies of this act to appropriate officials. The secretary of state shall, at the expense of the state, furnish the county clerk, and the city and town clerks, copies of Title 23, chapter 47, R.C.M. 1947. The public official with whom a candidate files a declaration or certificate of nomination shall transmit a copy of Title 23, chapter 47, R.C.M. 1947, to the candidate. Such copies shall also be furnished to any other person required to file a statement. Upon his own information, or at the written request of any voter, the secretary of state shall provide a copy of Title 23, chapter 47, R.C.M. 1947, to any other individual who may be a candidate, or who may otherwise be required to make a statement required by this act.

23-4795. Limitation on contributions. (1) Aggregate contributions for all elections in a campaign by an individual to a candidate and political committees organized on his behalf other than the candidate and his immediate family are limited as follows:

(a) for candidates filed jointly for the office of governor and lieutenant governor, not to exceed fifteen hundred dollars ($1500).

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed seven hundred fifty dollars ($750);

(c) for a candidate for public service commission not to exceed four hundred dollars ($400);

(d) for a candidate for district court judge, not to exceed three hundred dollars ($300);

(e) for a candidate for the legislature, not to exceed two hundred fifty dollars ($250); and

(f) for a candidate for city or county office, not to exceed two hundred dollars ($200).

(2) An independent committee means a committee which is not organized on behalf of a candidate or which is not controlled either directly or indirectly by a candidate or candidate's committee, and which does not act jointly with a candidate or candidate's committee in conjunction with the making of expenditures or accepting contributions. For the purpose of limitation on contributions, political party organizations are independent committees. Aggregate contributions by an independent committee to a candidate and political committees organized on his behalf for all elections in a campaign are limited as follows:

(a) for candidates filed jointy for the offices of governor and lieutenant governor, not to exceed eight thousand dollars ($8,000);

(b) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed two thousand dollars ($2,000);

(c) for a candidate for public service commissioner, not to exceed one thousand dollars ($1,000);

(d) for a candidate for district court judge, not to exceed two hundred fifty dollars ($250);

(e) for a candidate for the legislature, not to exceed two hundred fifty dollars ($250);

(f) for a candidate for city or county office, not to exceed two hundred dollars ($200).

(3) (a) Aggregate contributions by a candidate and his immediate family to his own candidacy and committees organized on his behalf are limited for all elections in a campaign as follows:

(i) for a candidate to be elected for state office in a statewide election, other than the candidates for governor and lieutenant governor, not to exceed six thousand dollars ($6,000);

(ii) for candidates filed jointly for the offices of governor and lieutenant governor, not to exceed nine thousand dollars ($9,000) to both candidates combined;

(iii) for a candidate for state district office, including but not limited to candidates for the state senate, public service commission and district court judge, not to exceed one thousand dollars ($1,000) in all elections in a campaign;

(iv) for candidates for the state house of representatives

not to exceed five hundred dollars ($500) in all elections in a campaign; and

(v) for a candidate for city or county office, not to exceed three hundred dollars ($300) in all elections in a campaign.

(b) As used in this section, a candidate's immediate family means the candidate's spouse, and the ascendents, descendants, brothers and sisters of the candidate and his spouse, and their spouses.

(4) The limitations imposed by this section do not apply to public funds contributed to a candidate under any public financing provision of this code.

Note: Section 23-4795 becomes effective on January 1, 1976.

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